

As stated in MPEP section 2143.01

"Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art"

The Examiner has stated that it would be obvious to alter the design of Iverson such that the support straps extend over the top of the backpack of Iverson et al in order to "help maintain the shape of the bag and to provide more support for the load being carried by the backpack". Gausling describes top straps 600 as optional (see col.8 lines 57-58). When top straps 600 are provided, however, a separation clip is not disclosed. Gausling does not teach how to access a compartment which is openable and overshich straps 600 extend.

The Examiner has acknowledged this and referred to Godshaw to teach the use of a separation clip. The Examiner stated that such clips would permit easier access to the opening 32 of the backpack. Accordingly, the Examiner has had to rely on three references to develop the specific combination of features relied upon by the applicant to argue that the reference is obvious. These modifications or changes must be supported by teaching, suggestion or motivation found in the cited references. The applicant has not located any specific teaching or suggestion in the references. Accordingly, the issue relates to motivation.

Ivarson wanted to improve load organization while "providing easy access, load stability, and carrying comfort" (col. 1, lines 47-50). Accordingly, according to the teaching of Iverson, there was no need to improve access. The need for the separation clip was only required once the Examiner suggested modifying Iverson to extend the straps over the opening in the backpack as taught herein. However, Iverson itself, according to its own teaching, provides "load stability, and carrying comfort" and therefore a person skilled in the art would not consider amending the design of Iverson as Iverson teaches that it's design provides carrying comfort.

As stated in MPEP section 2142:

The tendency to resort to "hindsight" based on applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art."

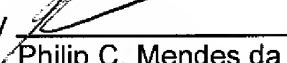
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The applicant points out that Godshaw is directed to a combination backpack and duffel bag. In the backpack mode, the shoulder straps do not extend across an openable top of the backpack. In fact, the ends of the shoulder straps are affixed to the back-facing back. Accordingly, in the reference that the Examiner relies on to teach separation clips, the inventor did not consider having shoulder straps that extend over an openable top and which also have separation clips. Accordingly, the applicant submits that the combination of features set out in claims 17, 22 and 30, and the claims dependant thereon, are not obvious in view of the cited art.

In addition, the applicant points out new claims 38, 42, 44 and 48, which specify that "the shoulder strap is connected to the back-facing face at a position spaced from the top end of the back-facing face". As exemplified in Figure 7a, the shoulder strap as claimed in these claims, is affixed to the back-facing back at a distance from the top of the backpack. The cinch strap, when tightened, essentially pulls the back-facing back, and therefore the load, upwardly, thereby improving ergonomics. This preferred embodiment is not taught by the cited art.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,  
BERESKIN & PARR

By   
Philip C. Mendes da Costa  
Reg. No. 33,106  
Tel: 416-957-1695